



Lawgics

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Serial No. 003
Dt.: 03-01-2023



Section 5 of CGST Act, 2017

5. Powers of officers.

- (1) Subject to such conditions and limitations as the Board may impose, an officer of central tax may exercise the powers and discharge the duties conferred or imposed on him under this Act.
- (2) An officer of central tax may exercise the powers and discharge the duties conferred or imposed under this Act on any other officer of central tax who is subordinate to him.
- (3) The Commissioner may, subject to such conditions and limitations as may be specified in this behalf by him, delegate his powers to any other officer who is subordinate to him.
- (4) Notwithstanding anything contained in this section, an Appellate Authority shall not exercise the powers and discharge the duties conferred or imposed on any other officer of central tax.

Our Interpretation

Section	
Section 5(1)	Section 5(1) empowers the officers to exercise various powers to discharge their duties efficiently and effectively. These powers are subject to certain conditions and limitations as may be imposed by the CBIC.
Section 5(2)	Section 5(2) empowers the officers to exercise the powers & discharge the duties of their subordinate. For Example, Principal Chief Commissioner, if required, can exercise the powers and discharge the duties of the Chief Commissioner.
Section 5(3)	The Commissioner may delegate his powers to any other officer, subordinate to him, subject to certain conditions and limitations by the Board.
Section 5(4)	Section 5(4) imposes restriction on the Appellate Authority to exercise the power and discharge the duties of the officer for normal administration of the Act. The objective behind this is that the Appellate Authority can pass an order impartially. Appellate authority is not given any administrative function so as to avoid conflicts between the administrative functions and appellate functions.

Section 6 of CGST Act, 2017

6. Authorisation of officers of State tax or Union territory tax as proper officer in certain circumstances.

(1) Without prejudice to the provisions of this Act, the officers appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act are authorised to be the proper officers for the purposes of this Act, subject to such conditions as the Government shall, on the recommendations of the Council, by notification, specify.

(2) Subject to the conditions specified in the notification issued under sub-section (1), —

(a) where any proper officer issues an order under this Act, he shall also issue an order under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as authorised by the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, under intimation to the jurisdictional officer of State tax or Union territory tax;

(b) where a proper officer under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act has initiated any proceedings on a subject matter, no proceedings shall be initiated by the proper officer under this Act on the same subject matter.

(3) Any proceedings for rectification, appeal and revision, wherever applicable, of any order passed by an officer appointed under this Act shall not lie before an officer appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act.

Our Interpretation

Section	
Section 6(1)	Section 6(1) deals with the eligibility of SGST/ UTGST officers to become a proper officer under CGST Act. Officers under SGST/UTGST Act shall have additional authority as CGST officers. But such authority is subject to various conditions which the Government may specify through notification on the recommendation of the Council.
Section 6(2)(a)	An order passed by a CGST Officer under CGST Act would also pass an order under SGST Act and would inform the respective jurisdictional officer about such an order passed by him and in such case, the jurisdictional SGST cannot pass an order on the same subject matter. This is done to avoid the overlapping of administration.
Section 6(2)(b)	Once any proceeding is initiated by an officer under SGST Act then CGST officer cannot initiate proceeding under CGST Act on the same subject matter. Thus, it can be concluded that any proceeding once initiated will continue till conclusion by the officer under SGST Act.
Section 6(3)	Any order passed by CGST Officer cannot be rectified, revised, reviewed or taken up in appeal by the officers appointed under SGST Act.

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